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Ontario

MINISTRY OF INTERGOVERNMENTAL AFFAIRS  
LOCAL GOVERNMENT DIVISION

BULLETIN NO. 15

AN ACT TO AMEND THE MUNICIPAL ACT (BILL 80)  
REMUNERATION AND EXPENSES



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## Introduction

On June 20, 1978, An Act to amend The Municipal Act received Royal assent. This Act deals with, among other matters, remuneration and expenses of members of municipal councils, local boards, and other bodies and the expenses of municipal staff.

These changes to The Municipal Act apply to every municipality in Ontario, including regional, metropolitan, and district municipalities and the County of Oxford through amendments to their respective acts.

This bulletin is meant to provide information that may assist municipal councils and staff in meeting the remuneration and expense requirements of this legislation.

The bulletin does not refer to every section amended; rather it attempts to highlight the more important sections.

This bulletin is not intended as a substitute for the Act, and readers are urged to make direct reference to the actual legislation. The advice of solicitors should also be sought in determining and applying the provisions of this Act.

### Section 388 - "Remuneration of Councillors"

Sections 388 and 389 of The Municipal Act formerly allowed councils to pay their members on the basis of either per diem rates or annual allowances. These sections have been repealed so that now, under the new section 388, that authority is expanded to allow more flexibility in the manner by which payment is made and determined.

"... the council of a municipality may pass by-laws for paying remuneration to the members of council, and such remuneration may be determined in any manner that council considers advisable". Further, "The remuneration to be paid may be determined in different manners and be of different amounts for different members of council".

Therefore, a council may

- pay its members on an annual or monthly basis;
- pay its members on a per meeting or a per diem basis;
- pay its members on an annual basis in combination with a per meeting or per diem rate;
- differentiate and pay for the varying levels of responsibilities of its members who provide additional services for the council such as head of council, deputy head of council, committee chairman;
- or develop some other arrangement it feels appropriate to its particular circumstances.

### Section 389(1) - "Expenses"

The basic purpose of this section is to allow municipal councils to determine and reimburse, in a way that council deems appropriate, the expenses of their members and staff incurred while on municipal business.

Expenses, of course, would include such items as food and lodging, travel costs, conference registrations, and others that council may accept.

In making these determinations, councils may, as in the past, use such methods of payment as mileage rates, per diem rates, and similar approximations. Should council use such methods, the municipal auditor should be consulted as to the reasonableness of the amounts.

The section strengthens the responsibility of councils to satisfy themselves that the expenses are in respect of matters that are within the jurisdiction of the municipality.

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Section 389a(1) - "Remuneration of Council Members as Local Board Members"

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This section gives councils the responsibility for determining and paying the remuneration of members of council and other persons appointed by the council to serve as members of local boards. It applies to both appointments to local boards and appointments to other bodies. Members of council who are ex officio members of local boards or other bodies are treated similarly. In this section as well, the amount "may be determined in any manner that council deems advisable".

389a(2)

This section specifically excludes a county, or a regional, district or metropolitan municipality or the County of Oxford from "other body". Therefore, "appointees" by area municipalities to vacancies on upper-tier councils would not receive duplicate payments from both the lower and upper-tier municipalities for services provided as a member of the upper-tier council.

389a(4)

Appointees to and ex officio members of public utilities commissions and hydro-electric commissions are excluded from receiving remuneration from council. (Section 389a does not apply to school boards, of course, since there are no council appointees to school boards).

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Section 389b - "Expenses of Council Members as Local Board Members"

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This section states that the provisions of section 389(1) apply as well to the expenses of council members and others appointed by council as members of a local board or any other body.

Section 389c - "Remuneration or Expenses Not To Be Paid by Local Board"

Council appointees to local boards shall not receive remuneration or expenses from the local board to which they have been appointed. This also precludes a municipality from recovering, on a chargeback basis from the local board, the costs it has incurred.

It should be noted that additional payment for service as a member of "any other body" is not prohibited. Council appointees to, for example, a board of governors of a university are permitted to receive payment from the university as well as, or instead of, from the municipality.

An amendment is being considered to give local boards the responsibility for providing additional remuneration for their chairmen or vice-chairmen where those positions are held by appointees of municipal councils.

Section 389d(1) - "Statement by Treasurer"

The purpose of this section is to establish a mechanism that will allow the public to view and assess the remuneration and expenses paid by the municipality to each member of council in respect of his services as a member of council, and the municipality's payments to council appointees to local boards or other bodies.

This section requires the treasurer of every municipality to prepare and submit to the council a statement that is sufficiently detailed or "itemized". The purpose of the treasurer's statement is not to disclose aggregate remuneration received by individual council members, as would an income tax form. Rather, it is intended to provide information only on the payments made by the municipality. For example, both a regional municipality and an area municipality would report payments made to an individual serving on both councils.

Some discretion may, indeed should, be exercised in determining the detail provided. Too much will be as meaningless as too little. For example, remuneration as a councillor might be distinguished from remuneration as an appointee to a local board or other body.

It is important to note that this section does not apply to the remuneration and expenses paid to employees. "Officer of the municipal corporation" does not refer to employees, but rather to the head of council as chief executive officer, for example.

It should also be noted that remuneration and expenses paid to trustees of police villages would be included in the treasurer's statement. (Section 474 as amended by this Act).

#### Section 389e - "Agreement re Expenses"

Although there are relatively few such situations, section 389e, subsections (1) and (2), provide for the sharing and apportioning of the costs of one appointee representing two or more municipalities on a local board or other body.

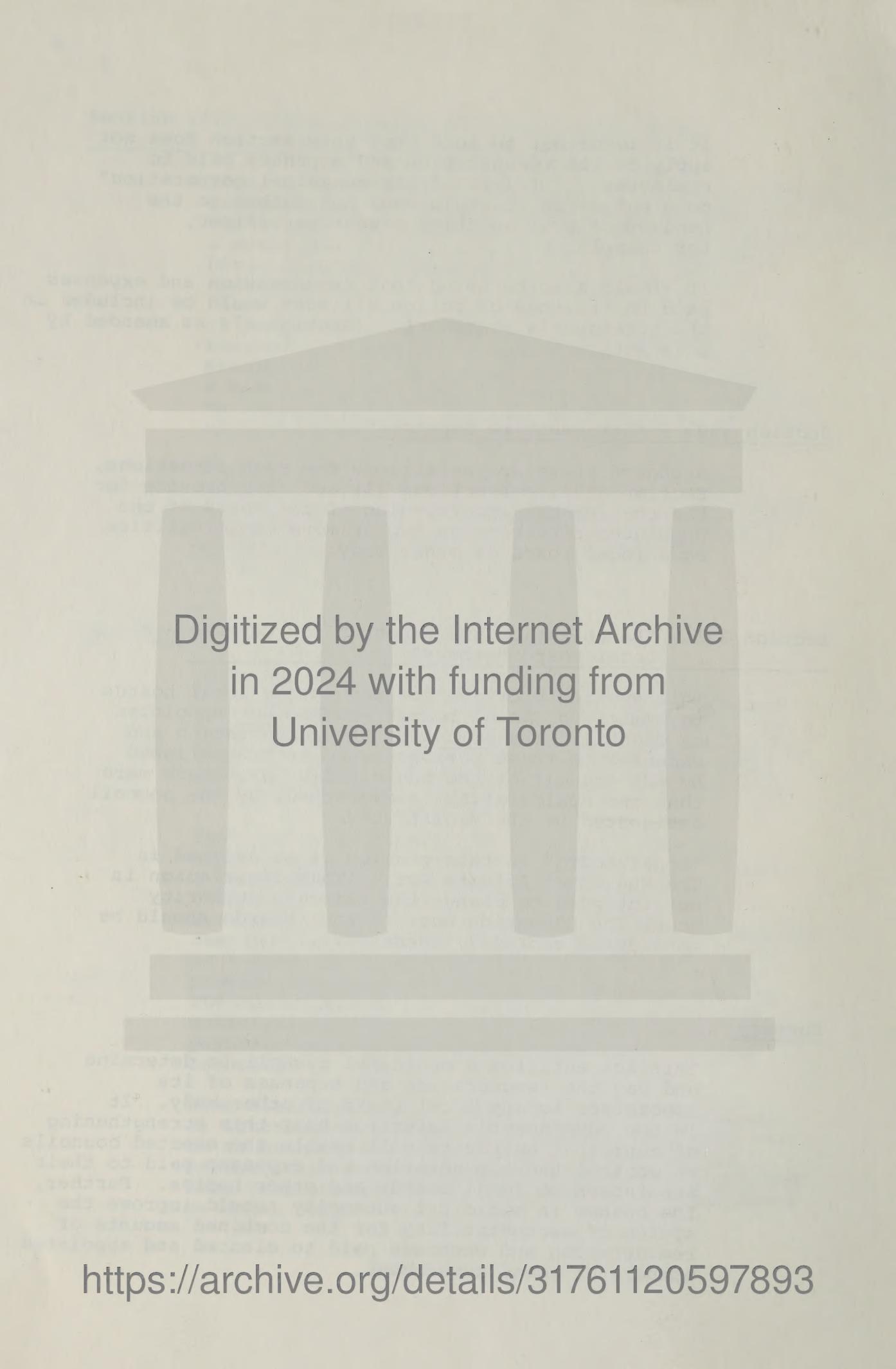
#### Section 391 - "Remuneration and Expenses For Certain Local Board Members"

This section provides for payment by local boards to members of local boards who are not appointed by council. The amount of the remuneration and expenses to those persons is to be "established by the council of the municipality or, where more than one municipality is concerned, by the council designated by the Ministry."

"Local board" in this section is as defined in The Municipal Affairs Act. (This legislation is not intended to change the existing authority under The Education Act. School boards should be considered excluded, therefore).

#### Summary

This Act entitles a municipal council to determine and pay the remuneration and expenses of its appointees to any local board or other body. It is the Government's intention that this strengthening of municipal authority will enable the elected councils to control the remuneration and expenses paid to their appointees to local boards and other bodies. Further, the change in municipal authority should improve the system of accountability for the combined amounts of remuneration and expenses paid to elected and appointed members of local government.



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